

DETAILED ACTION

Status of Claims

1. This action is in reply to applicant's filing on 15 December 2009.
2. Claims 1, 45 & 89 have been amended.
3. Claims 1-93 are currently pending and have been examined.

Priority

4. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 3-4, 6-12, 17-20, 22, 24-33, 39-43, 45, 47-48, 50-56, 61-64, 66, 68-77, 83 & 89-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen, III (US 4731726) (hereinafter Allen) in further view of Fu et al. (US 4803625) (hereinafter Fu).

Claim 1**Allen as shown, discloses the following limitations:**

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)
- *configured to collect the health-related data based on at least one health condition of the patient;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *remotely located;* (see at least Allen Fig:4 Items:100-106 related text)
- *on a first communication channel;* (see at least Allen Fig:3 & related text)
- *to receive the health-related data from the microprocessor device;* (see at least Allen Column:4 Lines:51-63)
- *configured to generate health-related information from the health-related data;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *at least one health care professional computer, remotely located;* (see at least Allen Fig:4 Items:100-106)
- *on a second communication channel;* (see at least Allen Fig:3 & related text)
- *to receive the health-related information;* (see at least Allen Column:4 Lines:51-63)
- *... is configured to transfer one or more computer programs from the central server to the microprocessor device, the computer programs once transferred being executed by the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)
- *for collecting the health-related data;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)

Allen does not disclose the following limitations, however Fu, as shown does:

- *at least one central server; from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

- *in signal communication with the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the features of Fu into Allen. One of ordinary skill in the art would have added these feature into Allen with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 3

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying pictorial health-monitoring related information;* (see at least Allen Column:3 Lines:52-63)

Claim 4

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *the microprocessor device is capable of displaying animated health-monitoring related information;* (see at least Allen Column:3 Lines:52-63)

Claim 6

The combination of Allen/Fu disclose all of the limitations of claim 4. Allen further discloses the following limitation:

- *wherein the microprocessor device includes buttons, keys or switches* (see at least Allen Fig:1 Item:11 & related text)

Claim 7

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *at least one health-monitoring device arranged to communicate health-related data to the central computer;* (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)

Claim 8

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *a data management unit configured to (i) facilitate collection of the health-related data from the health monitoring device and (ii) transfer the computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 9

The combination of Allen/Fu disclose all of the limitations of claim 8. Allen further discloses the following limitation:

- *the data management unit facilitates collection of health-related data by receiving data related to the monitored condition from at least one of the health-monitoring devices;* (see at least Allen Column:1 Lines:50-68)

Claim 10

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one of the health-monitoring devices includes one or more of a blood glucose monitor; a peak flow meter; a blood pressure monitor; a pulse monitor; and a body temperature monitor* (see at least Allen Column:4 Lines:35-41)

Claim 11

The combination of Allen/Fu disclose all of the limitations of claim 7. Allen further discloses the following limitation:

- *at least one personal computer connected to the data management unit* (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)

Claim 12

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *one report based on the health-related data* (see at least Allen Fig:4 Items:10, 100-106, 114 & related text)

Claim 17

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *can generate the report;* (see at least Allen Fig:4 Items: 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 18

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *the system is configured to cause the presentation of at least one report on the display; (see at least Allen Fig:4 Items: 102,110,114 & related text)*

Claim 19

The combination of Allen/Fu disclose all of the limitations of claim 12. Allen further discloses the following limitation:

- *wherein the system can display statistical and/or trend information (see at least Allen Fig:1 Items:10 & related text)*

Claim 20

The combination of Allen/Fu disclose all of the limitations of claim 19. Allen further discloses the following limitation:

- *wherein the system can display the statistical or the trend information to the patient; (see at least Allen Fig:1 Items:10 & related text)*

Claim 22

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transmit at least one message to the microprocessor device for viewing on the display; (see at least Allen Column:1 Lines:6-11, Fig:1 Items:10& related text)*

Claim 24

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message includes results of a test (see at least Allen Column:6 Lines:53-61)*

Claim 25

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message includes diagnostic information indicating whether a test has proceeded in a normal fashion (see at least Allen Column:15 Lines:50-62)*

Claim 26

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a multi-line message* (see at least Allen Column:11 Lines:4-14)

Claim 27

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *the message is a health care professional selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

Claim 28

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the health care professional generates the selected message* (see at least Allen Fig:4 Items:100, 104, 110-112 & related text)

Claim 29

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message is a educational or motivational* (see at least Allen Fig:4 Items:112, related text & Column:10 Lines:7-12 "The monitor is able to collect dietary information in three different way. The physician will specify which way the monitor should ask about food intake to reflect the way best suited for the individual patient based on his motivation and education in quantifying dietary intake.")

Claim 30

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message to a specific patient;* (see at least Allen Fig:4 Items:112-114 & related text)

Claim 31

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system is configured to transmit the message automatically to the patient* (see at least Allen Fig:4 Items:112-114 & related text)

Claim 32

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the system enables the patient to choose when to receive the message* (see at least Allen Column:10 Lines:35-36 "Then the patient selects the review data option by pressing the RD key.")

Claim 33

The combination of Allen/Fu disclose all of the limitations of claim 22. Allen further discloses the following limitation:

- *wherein the message can be stored . . . before being transmitted to the patient;* (see at least Allen Column:14 Lines:19-23)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *in the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 39

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transfer the computer programs . . . the microprocessor device in response to an input received at the microprocessor device;* (see at least Allen Column:1 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 40

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the patient can indicate user experienced symptoms to the microprocessor device;* (see at least Allen Column:9 Lines:5-11)

Claim 41

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system can capture quantitative measurements* (see at least Allen Abstract: "A monitor system is provided which includes means for measuring blood glucose values and for generating glucose data signals, monitor means coupled to the measuring means and including means for inputting patient data, means for transmitting and receiving data to and from the monitor means, and computing means for receiving glucose data signal in connection with administration treatment for diabetes mellitus.")

Claim 42

The combination of Allen/Fu disclose all of the limitations of claim 41. Allen further discloses the following limitation:

- *wherein the system can capture medication data* (see at least Allen Column:2 Lines:28-47)

Claim 43

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the collected patient health-related data includes time data* (see at least Allen Column:6 Lines:19-27 "The data thus entered sets a time value into the timer and "Channel O" signal from shift register output 12 subsequently initiates operation of the timer. Upon timeout of the timed interval timer 52 sends a signal to the MPU I/O control terminal B7, whereupon MPU takes the appropriate action, such as producing a "beep" sound through audio unit 13 and triggering a prescribed software routine to give the patient the necessary prompts, etc.")

Claim 45

Allen as shown, discloses the following limitations:

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)
- *configured to collect the health-related data based on at least one health condition of the patient;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *remotely located;* (see at least Allen Fig:4 Items:100-106 related text)
- *communicating the health-related data from the microprocessor device to the central server;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)
- *generating health-related information from the health-related data;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *putting at least one remotely-located health-care-professional computer;* (see at least Allen Fig:4 Items:100-106 related text)

- *on a second communication channel;* (see at least Allen Fig:3 & related text)
- *receiving at the health care professional computer, the health related information;* (see at least Allen Column:4 Lines:51-63 Fig:4 Items:100-106 & related text)
- *transferring one or more computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)
- *the computer programs once transferred being executable by the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)
- *for collecting the health-related data;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)

Allen does not disclose the following limitations, however Fu, as shown does:

- *connecting at least one central server . . . ; from the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the features of Fu into Allen.

One of ordinary skill in the art would have added these feature into Allen with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 89

Allen as shown, discloses the following limitations:

- *at least one microprocessor device including a display;* (see at least Allen Fig:1 Item:12 & related text)
- *and a memory;* (see at least Allen Fig:2 Items:152-154 & related text)

- *configured to collect the health-related data based on at least one health condition of the patient;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *remotely located;* (see at least Allen Fig:4 Items:100-106 related text)
- *communicating the health-related data from the microprocessor device to the central server;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)
- *generating health-related information from the health-related data;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10,100-114 & related text)
- *putting at least one remotely-located health-care-professional computer;* (see at least Allen Fig:4 Items:100-106 related text)
- *on a second communication channel;* (see at least Allen Fig:3 & related text)
- *receiving at the health care professional computer, the health related information;* (see at least Allen Column:4 Lines:51-63 Fig:4 Items:100-106 & related text)
- *transferring one or more computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)
- *the computer programs once transferred being executable by the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)
- *for collecting the health-related data;* (see at least Allen Column:1 Lines:50-68 Claim:5 Fig:4 Items:10,100-114 & related text)

Allen does not disclose the following limitations, however Fu, as shown does:

- *connecting at least one central server . . . ; from the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the microprocessor device;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *in signal communication with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)
- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the features of Fu into Allen. One of ordinary skill in the art would have added these feature into Allen with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 90

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *configured to transfer the computer programs . . . the microprocessor device;* (see at least Allen Column:1 Items:50-68 Fig:4 Items:10, 100-114 & related text)
- *automatically on a repeated basis;* (see at least Allen Column:12 Lines:4-7)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 91

The combination of Allen/Fu disclose all of the limitations of claim 1. Allen further discloses the following limitation:

- *wherein the system is configured to transfer the computer programs . . . the microprocessor device in response to an input received at the health care professional computer;* (see at least Allen Column:1 Claim:8 Fig:2 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to

provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 92

The combination of Allen/Fu disclose all of the limitations of claim 45. Allen further discloses the following limitation:

- *transferring the computer programs . . . to the microprocessor device;* (see at least Allen Column:1 Lines:50-68 Fig:4 Items:10, 100-114 & related text)
- *automatically on a repeated basis;* (see at least Allen Column:12 Lines:4-7)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 93

The combination of Allen/Fu disclose all of the limitations of claim 45. Allen further discloses the following limitation:

- *transferring the computer programs . . . the microprocessor device in response to an input received at the health care professional computer;* (see at least Allen Column:1 Fig:2 Items:50-68 Fig:4 Items:10, 100-114 & related text)

Allen/Fu does not disclose the following limitation, however Fu, as shown does:

- *from the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claims 47-48, 50-56, 61-64, 66, 68-77, 83 disclose substantially similar limitations as those found in system claims 3-4, 6-12, 17-20, 22, 24-33 & 39, and are rejected on the same grounds as stated above.

8. Claims 2, 5, 23 & 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Fu in further view of in view Beckers (US 5019974) (hereinafter Beckers)

Claim 2

The combination of Allen/Fu disclose all of the limitations of claim 1. Beckers further discloses the following limitation:

- *stored program instructions for generating health-monitoring related information on the display;*
(see at least Beckers Column:2 Lines:21-38)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

Claim 5

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the memory is a program cartridge;* (see at least Allen Fig:1, Fig:2 Items:152-154 & related text)

Claim 23

The combination of Allen/Fu disclose all of the limitations of claim 22. Beckers further discloses the following limitation:

- *wherein the message includes step-by-step instructions* (see at least Beckers Claim 1(c))

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more efficient and effective method and system for collecting and monitoring patients' medical conditions using networked portable devices with conventional processors. (see at least Beckers Column:1 Lines:45-53)

Claim 34

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to allow the patient to control the display of information using at least one menu* (see at least Allen Fig:2 Fig:4 Items:150-150a & related text)

Claim 35

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 34. Allen further discloses the following limitations:

- *a display mode for displaying relevant information;* (see at least Allen Fig:1 Items:12 & related text)
- *an input mode for providing information; and* (see at least Allen Fig:1 Items:11 & related text)
- *a communications mode for establishing a link;* (see at least Allen Fig:4 Items:10, 100-110 & related text)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *with the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 36

The combination of Allen/Beckers disclose all of the limitations of claim 34. Allen further discloses the following limitation:

- *the menu allows the patient to select a monitoring mode in which at least one health-monitoring device is used to monitor at least one health condition;* (see at least Allen Column:11 Lines: 41-55)
- *to communicate data related to the monitored condition;* (see at least Allen Fig:2 Items:66, Fig:4 Items:10-102-106 related text)

Allen/Beckers/Fu does not disclose the following limitation, however Fu, as shown does:

- *the central server;* (see at least Fu Fig:1 Items:10-62 & related text)

It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)

Claim 37

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 34. Allen further discloses the following limitation:

- *wherein the menu allows the patient to display messages or instructions from a health care professional;* (see at least Allen Column:4 Lines:11-15)

Claim 38

The combination of Allen/Beckers/Fu disclose all of the limitations of claim 2. Allen further discloses the following limitation:

- *wherein the system is configured to enable the patient to respond to information on the display by using a cursor or other indicator positioned at a selected item;* (see at least Allen Column:4 Lines:50-67)

Claims 46, 49, 67, & 78-82 disclose substantially similar limitations as those found in system claims 2, 5, 23 & 34-38, and are rejected on the same grounds as stated above.

9. Claims 13-16, 21, 44, 57-60, 65, and 88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen in view of Fu in further view of Yamamoto (US 4685059) (hereinafter Yamamoto).

Claim 13

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein at least one report is standardized* (see at least Yamamoto Fig:4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 14

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *system is configured to allow a health care professional to select which of a plurality of standardized reports is produced* (see at least Yamamoto Column:15 Lines:5-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 15

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report uses graphs and/or icons* (see at least Yamamoto Fig:5 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 16

The combination of Allen//Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report can be generated periodically* (see at least Yamamoto Column:5 Lines:29-68 & Column:6 Lines:1-12)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 21

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *wherein the report includes information data for a period of time* (see at least Yamamoto Fig:2, 4 & related text)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claim 44

The combination of Allen/Fu disclose all of the limitations of claim 12. Yamamoto further discloses the following limitation:

- *the healthcare professional receives the report after transmitting an authorization code to the server that identifies an associated healthcare professional as an authorized user* (see at least Yamamoto Column:5 Lines:13-28)

It would have been obvious to one of ordinary skill in the art to add this feature into Allen/Fu. One of ordinary skill in the art would have added this feature into Allen/Fu with the motivation of providing a more accurate and effective method and system for monitoring and analyzing the updated medical information to improve patient care. (see at least Yamamoto Column:1 Lines:9-15)

Claims 57-60 & 65 disclose substantially similar limitations as those found in system claims 13-16 & 21 and are rejected on the same grounds as stated above.

Response to Arguments

10. Applicant's arguments received on 15 December 2009 have been fully considered but they are not persuasive.
11. In response to applicant's argument regarding Examiner's motivation to combine for reference Fu, the Examiners acknowledges his mistake in citing the basis for the motivation from Beckers, and not from Fu, as intended. Proper corrections have been made and further, the Examiner points out that his error does not warrant the applicant's request for a new Non-Final Office Action, as the merit of the rejection has not changed.
12. In response to applicant's argument that Allen, Fu, Beckers & Yamamoto are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992).

13. In response to the applicant's argument that the Allen reference does not teach "*central server*" the Examiner points out that the Office Action does not cite Allen (which does not specifically say "*central*"), but rather cites Fu. Further, applicant asserts that Fu does not cure this deficiency, however this assertion is unsubstantiated. The Examiner points out that this combination of references has been properly combined & cited. It would have been obvious to one of ordinary skill in the art to add the feature of Fu into Allen/Beckers/Fu. One of ordinary skill in the art would have added this feature into Allen/Beckers/Fu with the motivation to provide an improved invention to input, measure, monitor and communicating health data. (see at least Fu Column:1 Lines:43-67 Column:2 Lines:1-57)
14. In response to the applicant's argument that Allen "does not teach the missing central server receiving data", the Examiner points out that the Office Action does not claim this. The Office Action cites Allen to teach "*receiving health related data*", and thus applicant's argument moot.
15. The next few arguments from the applicant are based on Allen not teaching "*central server*". This argument has been dealt with above and thus these arguments are responded to on the same grounds.
16. In response to applicant's argument that reference Fu is not cited for ". . . remotely located from and in signal communication on a second communication channel with the central server to receive the health-related information from the central server", the Examiner has considered applicant's arguments and finds them unpersuasive. First, Fu is not cited to claim language "*remotely located*". In addition, "*second communication channel*" is new claim language and is appropriately cited above. Finally, applicant has not properly cited their claim language in this argument, thus rendering this argument moot and unsubstantiated.
17. In response to applicant's argument that regarding the citation of Allen Fig:4 Items:100-114, and the apparent confusion, the Examiner respectfully disagrees with applicant's arguments finding them unsubstantiated. Items 100 & 102 show a person using a computer, which is cited for a "*personal*

computer". The "*data management unit*" is clearly shown by Items:10 & 114, and "*communication*" is shown by Item:105.

18. In response to applicant's argument the cited prior art is silent regarding "*the monitor 10 receiving computer programs through the modem 106 and the missing transfer occurring in response to an input received at the monitor*", the Examiner respectfully disagrees with applicants argument, in light of the following language from cited reference Allen: ". . . *an apparatus for processing patient glucose data values in terms of a physician-prescribed algorithm. An additional object is the provision of apparatus for transferring a patient's blood glucose data values over a communication channel to a physician's base computer station.*"
19. In response to applicant's argument invoking MPEP 2142, the Examiner understands applicant's argument but finds it misplaced. The citation of applicant's specification is not used to reject any of applicant's claims but rather is cited in the applicant's arguments. Further, the citation of applicant's specification is not used to support Examiner's argument but rather to clarify the meaning of applicant's own terminology and claim language.
20. In response to applicant's argument the cited prior art fails disclose or teach "*repeated basis*" the Examiner respectfully disagrees pointing out that reference Allen clearly teaches an act repeated by a computer. (see at least Allen Column:12 Lines:4-7)
21. Applicant's arguments for the allowability of claims 2-44, 46-88 & 90-93 are based on their dependency on the currently rejected independent claims, thus claims 2-44, 46-88 & 90-93 are rejected on the same grounds as addressed in the independent claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAJIV J. RAJ whose telephone number is (571) 270-3930. The examiner can normally be reached on Monday thru Friday 8-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

Date: 04/05/10
/RJR/ Patent Examiner Art Unit 3686

/Vivek D Koppikar/
Primary Examiner, Art Unit 3686